THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

23943 of 2005, 1273 and 1892 OF 2006

06-03-2006

Between:

Visaka Harbor and Port Workers Union, Visakhapatnam, rep. by its General Secretary & others.

……Petitioners

And

Assistant Commissioner of Income Tax, Central Circle-I, Visakhapatnam & Others.

…..Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION Nos.

23943 of 2005, 1273 and 1892 OF 2006

COMMON ORDER : (Per Hon'ble Sri Bilal Nazki, J)

Heard learned counsel for the parties.

The question raised in these writ petitions is, whether the

amounts received by the 4th Respondent – Pool are income or not. We are told that assessments have been made and the Revenue treated the amounts as income within the meaning of Section 12 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), and for violation of conditions in Section 13 of the Act, the assessments were made.

These assessments are already subject matter of appeals before the appellate authorities. The grievance of the petitioners was that the respondent No.4 was not taking steps to protect the amounts and as a result, the petitioners were suffering for whose benefit the Pool had been created.

The learned Senior Counsel appearing for the Income-tax Department, has raised various pleas, including the plea that these writ petitions are not competent as they had not been filed by the Society in accordance with the provisions of Registration of Societies Act, 2001. He also contended that the petitioners could not come into the shoes of the assessee and had no *locus standi* to agitate the matters. The learned Counsel appearing for respondent No.4, on the other hand, submits that they have taken all the steps, which are necessary in law to be taken, and appeals have already been filed.

Since the appeals are pending before the appellate authorities, we decline to hear these matters at this stage. The petitioners, if so advised, may file an application as requested by them, for being heard by the appellate authorities while deciding the appeals. The petitioners, if allowed to be the parties in the appeal proceedings, may be permitted to take all the defences that may be available to them in law.

Writ petitions are accordingly dismissed.

(BILAL NAZKI, J)

6th March 2006

(G.CHANDRAIAH, J)

ajr